

**Amendment and Response**

Applicant: Ken G. Pomaranski et al.

Serial No.: 10/699,423

Filed: Oct. 31, 2003

Docket No.: 200209704-1

Title: SYSTEM AND METHOD FOR TESTING A CELL

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**REMARKS**

The following remarks are made in response to the non-Final Office Action mailed January 3, 2008. Claims 1-3 and 6-23 were rejected. Claims 4 and 5 were objected to. Claim 24 was allowed. With this Response, claims 1, 14, and 19 have been amended. Claims 4-5 and 9 have been canceled without prejudice as to the subject matter contained therein. Claims 1, 3, 6-8, and 10-24 remain pending in the application and are presented for reconsideration and allowance.

**Claim Rejections under 35 U.S.C. §112**

Claims 9 is rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Office Action alleges that the use of the “trademarked phrase (sic) as a claim limitation, 12C, renders the claim indefinite (see MPEP 2173.05(u)).”

Although Applicants respectfully traverse the rejection for reasons set forth in the Amendment and Response filed by Applicants on November 17, 2006, Applicants have canceled claim 9 to expedite the prosecution of the present Application.

**Claim Rejections under 35 U.S.C. §102 and Allowable Subject Matter**

Claims 1, 3, 6-8, and 10-23 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 3,812,468 (Wollum).

Claims 4 and 5 were objected to as being dependent upon a rejected base claim. Claim 24 was allowed.

Applicants have amended claim 1 to include the features of claim 5, and claim 5 has been canceled. Accordingly, Applicants respectfully submit that claim 1 and claims 3, 6-8, and 10-13 which depend from claim 1 are in a form for allowance.

Applicants have amended claim 14 to include features similar to those of canceled claim 5. Accordingly, Applicants respectfully submit that claim 14 and claims 15-18 which depend from claim 14 patentably distinguish over the cited reference for reasons similar to those provided by the Examiner for canceled claim 5.

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Applicants have amended claim 19 to include features similar to those of canceled claim 5. Accordingly, Applicants respectfully submit that claim 19 and claims 20-23 which depend from claim 19 patentably distinguish over the cited reference for at least the reasons provided by the Examiner for canceled claim 5.

**CONCLUSION**

In view of the above, Applicant respectfully submits that pending claims 1, 3, 6-8, and 10-24 are in form for allowance and are not taught or suggested by the cited references. Therefore, reconsideration and withdrawal of the rejections and allowance of claims 1, 3, 6-8, and 10-24 is respectfully requested.

The Examiner is invited to contact the Applicant's representative at the below-listed telephone numbers to facilitate prosecution of this application.

Any inquiry regarding this Amendment and Response should be directed to either David A. Plettner at Telephone No. (408) 447-3013, Facsimile No. (408) 447-0854 or Christopher P. Kosh at Telephone No. (512) 231-0533, Facsimile No. (512) 231-0540. In addition, all correspondence should continue to be directed to the following address:

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Respectfully submitted,

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Date: February 25, 2008

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